



The Michigan Judicial Institute Presents:

## **Making Juvenile Court More Victim Friendly**

September 29, 2003

The Michigan Judicial Institute Presents:

## **Do's and Don'ts of Victim Support**



**Ms. Anne Gleason**

Advocate

Mothers Against Drunk Driving

### **When We Are Victimized**

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- What will people think?
- How did I allow this to happen?
- What should I have done differently?
- Did I really do all that I could have to protect myself?

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### **As A Victim Can I Get Information?**

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- I wonder if they will cover it up.
- Will they think it is my fault?
- Do they keep the records sealed?
- Will it be expunged from the record of the teen when they reach 21?

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### **DO'S AND DON'TS OF VICTIM INTERACTION**

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#### **Use statements like:**

- I'm sorry this happened to you.
- It's much more difficult/takes longer than most people think.
- Most people who have been through this feel much like you do.

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### **Say To Victims:**

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- I'm sorry
- This must be very painful for you.
- It's okay to be angry, sad, etc.
- It must be very hard to accept the loss.
- Many people in your situation feel the same way you do.
- How can I help?

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## Don't

- Don't enhance guilt.
- Don't compare victimization.
- Don't encourage strength.
- Don't exploit the victim.
- Don't be afraid of emotion.
- Don't try to talk victims out of grief.

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## Avoid Phrases Like:

- He (God) had a purpose.
- Be thankful you have other children.
- You have to get on with your life.
- You have to be strong and keep on going.
- Your anguish will not bring him/her back.
- That is over now, let us not talk about it.
- Do not cry.
- Time will heal all wounds.

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## Victim Empowerment

In the aftermath, most victims must deal with the physical and emotional shockwaves of the event but also, in short order, with the sense of helplessness, powerlessness, and loss of control.

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## Victim Empowerment

For many victims, the physical and emotional reactions are not severe, and recede with time. For others, the crisis is put on hold and only days, even years, later, are they slapped with a sense of the enormity of the event. Even victims who do not develop the symptoms of long term stress reactions face the risk that certain "triggers" will reproduce the old feelings of panic, helplessness, anger, and the like.

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## Victim Empowerment

A common response in the shock of the moment is for the victim to turn to someone nearby who is perceived as an authority figure for help.

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## How Can You Help?

Help victims to re-establish a sense of control over the small things, then the larger ones, in their lives.

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## How Can You Help?

Often the recovery of a physical object that is important to the survivor helps to re-establish a sense of control. For instance, a ring or a watch of a loved one would make them feel they have part of that person.

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## VALIDATION and VENTILATION

Validation should be content-specific.

**Example:** rather than saying "I can't imagine how upset you are," it is preferable to say, "I can't imagine how upset you are about what happened to you or your family."

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## VALIDATION and VENTILATION

POTENT NEED is information about the crime and what will happen next in their lives.

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## Examples

- What legal issues confront the victim?
- Will the case be processed in the criminal justice system?

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## Information About The Media

If the case is sensational or has a "newsworthy" face to it, it is likely that there will be media coverage.

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## Emotional Concerns

- Immediate physical and mental reactions may include inability to sleep, lack of appetite, anxiety, numbness, a sense of isolation, anger, fear, frustration, grief, and an inability to concentrate.
- Long-term physical and mental reactions may include nightmares, terror attacks, continued sense of isolation, inability to communicate with others, sleep disturbances, depression, inability to feel emotion, lack of concentration and so forth.

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## Traumatic Events

“Traumatic events are extraordinary, not because they occur rarely, but rather because they overwhelm the ordinary human adaptations to life.”

*Judith Herman*

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## When Victims Are Families

Remember when working with families who have become victims of a crime, that the parents and other adults in the family are suffering, and may not be able to deal with the grief of a child.

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## WHAT MAKES A VICTIM?

A victim will never look at the crime in the same way as they did before they were touched by the crime.

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## VICTIMS WHO ARE PHYSICALLY CHALLENGED

- Ask how best to handle any situation of which you are unsure.
- Remember that the victim is a person who happens to be disabled, rather than a disabled person who happens to be a victim.
- An attendant or family member may not be able to communicate with the victim any better than you.

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The Michigan Judicial Institute Presents:  
Making Juvenile Court More Victim Friendly:  
**CAN WE DO IT?**

**Mr. Dan Cojanu**  
Victim-Witness Services  
Oakland County Prosecutor's Office

## CAN WE DO IT?

We can by using two techniques:

- Time
- Patience

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## The First Hurdle

### COMPARING:

The Adult System

vs.

The Juvenile System

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## Justice

**Punishment**

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## Information

Information  
Information  
Information

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## The Reality of Juvenile Court

- ✓ Is a detention center available?
- ✓ Detention is expensive.
- ✓ Is it appropriate for every young person?
- ✓ Do we automatically punish for what might be a bad choice?

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## Criminal Sexual Conduct

**Rehabilitation**

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## How Do We Make the Victims and the System Work Together?

- ☐ Time Consuming ? **Yes**
- ☐ Frustrating? **Sometimes**
- ☐ Worth It? **Absolutely**

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## The Bench

- Do not set a time limit on impact statements.
- Allow interested parties to address the court.
- Allow “one on one” interaction with the victim.
- Be creative.

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## Probation Officers

- Listen
- Use suggestions
- Keep in contact

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## Assessing the Needs of a Victim

### Need To Feel Safe

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## Contact Information:

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The Michigan Judicial Institute Presents:

## Frequently Asked Questions About Restitution

Mr. Jeff Sauter  
Eaton County Prosecuting Attorney

### Category One: The Basic Issues

- Is restitution mandatory?
  - What about consent calendar?
- Who can claim restitution?
  - Who is the victim?
- What loss qualifies?
  - Lost income?
  - Travel expenses?

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### Is Restitution Mandatory?

- Article 1, Section 24 of Michigan's Constitution: "Crime victims ... shall have ... [T]he right to restitution".
- MCL 780.794(2) [...] the court **shall order** [...] that the juvenile make full restitution.
- Use of the word "shall" means mandatory rather than discretionary action.
  - People v Grant, 445 Mich 535 (1994)

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### What About Consent Calendar Cases?

- *"For an offense that is resolved informally by means of a consent calendar diversion or any other informal method that does not result in a dispositional hearing, **the court shall order the restitution required under this section**".*
  - MCL 780.794(2)

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### Who Can Claim Restitution?

- *"...any victim of the course of conduct that gave rise to the juvenile's adjudication".*
  - MCL 780.794(2)

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### 3 Categories Of Recovery

- Individual or entity
  - who suffers direct or threatened harm;
    - "Direct victim"
  - who compensate the victim; or
    - Insurance company
    - CVSC
  - who provide services to the victim.
    - Victim's rights organization

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## Two Types Of "Direct Victims"

- Type of victim defines what loss is allowed.
  - MCL 780.794(2) "Victim"
- Broad definition includes any **legal entity** that suffers direct physical or financial harm.
- Examples:
  - Businesses (partnership, corporation, etc.)
  - Associations
  - Government entity

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## Two Types Of "Direct Victims"

- **Individual Victim:** If the offense results in:
  - physical injury,
  - psychological injury,
  - death.
- Harm may be physical, financial or emotional.
- If a victim is deceased, restitution is ordered to their estate.

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## Government Entity

- Drug buy money.
  - *People v Crigler*, 244 MA 420 (2001)
- But, not general investigations.
  - *People v Newton*, 257 MA 61, (2003)
- Victim organizations.
  - Domestic shelter, etc.

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## What About Non-adjudicated Offenses?

- "...any victim of the the juvenile's course of conduct."
- Should be given a "broad" meaning as intended by the legislature.
  - MCL 780.794(2)
  - *People v Gahan*, 456 M 264 (1997)

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## When Is Lost Income Allowed?

- Must be an individual victim.
  - not an entity.
- Offense must result in physical or psychological injury.
  - not property damage or loss
- The income loss must be the victim's; it does not extend to family members.

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## With Child Victim, Can Parent Claim Lost Income?

- Wage loss is limited to the victim who suffered direct harm.
  - MCL 780.794(4)(c)
  - *People v Paquette*, 214 MA 336 (1995)

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### What About 'Sick Time' Used As A Result Of The Offense?

- While use of the accrued employment benefit is a loss suffered by the individual victim, there is no provision for restitution unless the offense causes an after-tax income loss.
  - *People v Jones*, 168 MA 191 (1988)
    - rejected award for travel expense

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### What About Travel Expenses?

- No, for property loss or damage.
  - *People v Jones*, 168 MA 191 (1988)
  - *People v McLaurin*, 1997 MA Lexis 1511
    - rejected witness travel expense of PA
- Yes, for personal injury.
  - But the travel must be connected to medical, psychological, or rehab services for victim or victim's family.
    - MCL 780.794(4)(a),(b),(d)
  - No provision for mileage to court hearings.

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### What About Victim's Response To Crime?

- Home security system?
- Cost of moving to new residence?
- Increased expense of alternate route to work or school?
- Alternate school for student?

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### Category Two: Entering The Order

- Establishment
- Documentation issues
- Valuation
- Resolving disputes

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### Who Collects The Information?

- Court may order probation officer to obtain information about the amount of loss.
  - Included in PSIR or separate report
  - MCL 780.767(2)

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### What Documentation Is Required?

- Damage estimates
- Opinions of value
- Insurance payoff amount
  - Indicator of present value of property

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### Is A Hearing Required?

- Judge may rely on the PSIR.
  - Presumed accurate w/o challenge
- If D objects, then a hearing must be held.
- Can victim object & obtain hearing?
  - Restitution cannot be excluded by plea or sentence agreement.
    - *People v Ronowski*, 222 MA 58 (1997)

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### Hearing Requirements?

- Proof = preponderance standard.
- PA has burden of proof.
- Rules of evidence do not apply.
  - MRE 1101(b)(3)
- D need not testify.
  - Silence cannot be used against D

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### What About Interest?

- Interest is element of monetary restitution.
- Money has a “use value.”
- Interest rate to apply is left to Judge’s discretion.
  - *People v Law*, 459 M 419 (1999)

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### What Is The Deadline For Requesting Restitution?

- CVRA has no time limit for submitting claim.
  - (contrast federal statute)
- Restitution is a Constitutional right.
  - Art 1, Section 24, Michigan Const. 1963
- Court “shall” consider the amount of loss.
  - MCL 780.767(1)
- Court “shall” order **full** restitution.
  - MCL 780.794(2)

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### Is There A “Valid Sentence” W/O Restitution Order?

- Restitution is mandatory.
- The remedy for partially invalid sentence is remand for resentencing.
  - *People v Jones*, 168 MA 191 (1988)
- The trial court must order the payment of restitution in each case.
  - *People v Miller*, 2003 MA Lexis 973, remanded to add restitution order.

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### What About Insurance Reimbursement?

- Order should name Insurance Co. or CVSC if “victim has received or is to receive compensation for that loss”.
  - MCL 780.794(8)

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## May Judge Impose Time Limits?

- Court orders restitution at disposition or sentencing of juvenile.
- Restitution is a Constitutional right.
  - Art 1, Section 24, Michigan Const. 1963
- Court “shall” consider the amount of loss.
  - MCL 780.767(1)
- Court “shall” order **full** restitution.
  - MCL 780.794(2)

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## What Are The Options?

- Adjourn sentencing.
- Specify the loss and victims to the extent possible.
  - People v Greenberg, 176 MA 296 (1989)
- Order restitution to named victims in an amount “to be determined.”
- Victim & offender have right to object.

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## How Is Property Damage Valued?

- Return property, or
- Pay the value of the property.
  - Value on date of offense or
  - Value on date of disposition
  - Less the value of any property returned

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## What If The Victim Has A Civil Suit Pending?

- Pending civil litigation is not a basis to reduce “full restitution”.
  - People v Avignone, 198 MA 419 (1993)
- Any amount “received” is offset from civil judgment.

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## What About The Juvenile’s Parents?

- If court determines that offender will be unable to pay all the restitution.
- Notice to parents
  - Does not reduce or relieve offender’s obligation, but amounts paid are offset.
- Court must consider parent’s financial resources.
  - MCL 780.794(15)(16)

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## Category Three: Disbursement issues

- Who gets what and when?
- Coordinating restitution with fines, costs, assessments and reimbursement.
  - Insurance proceeds
  - Civil litigation
  - Crime Victim’s Services Commission

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### Who Gets What & When?

- Order shall provide that all restitution to direct victim or estate be made
  - Before person or entity who reimburses.

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### What About Collection For Fines, Costs, And Reimbursement?

- 50% of each payment collected
  - Goes to "direct" victim or estate & CVSC fee.
- Balance by priority:
  - Costs, fines, probation/parole fees, assessments & other payments.
  - Including reimbursement of insurance payout.

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### Can The Victim Double Dip?

- Any amount paid for restitution shall be set off
    - Against amounts recovered as compensatory damages in civil suit
    - Or CVSC award
- MCL 780.794(9)

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### Should Each Victim Be Named In The Order ?

- No error where victim names not specified b/c of lack of information.
  - *People v Greenberg*, 176 MA 296 (1989)
- But, order should be amended to specify identified victims.
  - *In re Hofmann*, 2002 MA Lexis 2255
  - Trial court properly included restitution to insurance, but Ct of Appeals remanded to include the Ins Co. **by name** on the order.

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### Category Four: Enforcement

- How long does the order last?
- When does the court lose jurisdiction to enforce?
- Modification of restitution
  - Probation violations
- Discharge from probation

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### How Long Does The Order Last?

- The order is effective until "*satisfied in full*".
  - MCL 780.794(13)
- It is a judgment & lien against property of individual ordered to pay.
  - Juvenile or parents
- Lien may be recorded.
- May be enforced same as civil judgment or lien.

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### When Does The Court Lose Jurisdiction To Enforce The Order?

- When order is “satisfied in full.”
- Court has authority to enforce its order
  - Even after probation term expires;
  - Even after losing jurisdiction over offender.
    - People v Norman, 183 MA 203 (1989)
    - In re Reiswitz, 236 MA158 (1999)

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### Can The Order Be Modified?

- Juvenile, not in “willful default” can petition at any time
  - To modify the method of payment
  - Not the amount of the order.
- Court may modify with finding
  - Manifest hardship
  - Modifying will not result in manifest hardship on victim.
- MCL 780.794(12)

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### Can Court Add To Restitution?

- MCR 2.612(A) & (C), Relief from judgment or order
  - Order can be corrected for oversight or omission, or
  - Any other reason justifying relief.
- Court may modify at PV sentence.
  - People v Burks, 220 MA 253 (1996)
  - People v Ballard, 1997 MA Lexis 2263

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### Can Parent's Order Be Modified?

- Parent can petition to modify or cancel parent's portion.
- Court shall modify or cancel if order imposes “manifest hardship”, and
  - Modification will not impose “manifest hardship” on victim.
- Juvenile's order is not affected.
  - Cannot be modified for hardship.
  - MCL 780.794(17)

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### Who Can Enforce Restitution?

- Prosecuting Attorney;
- Victim or estate;
- Any other person or entity named in the order to receive restitution.
  - MCL 780.794(13)

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### What If The Disposition Does Not Include Restitution?

- For orders entered after June 1, 1997, restitution is mandatory.
- MCR 2.612(A) & (C), relief from judgment
  - Order can be corrected for oversight or omission, or
  - Any other reason justifying relief.

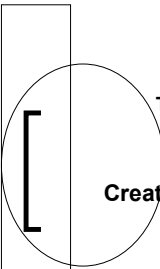
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## Can Probation End If Restitution Is Still Owed?

- Restitution order shall be a condition of probation.
- But, while probation is time-limited, restitution order is not.
- Restitution order remains effective despite discharge.
  - MCL 780.794(13)

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The Michigan Judicial Institute Presents:

### **GIVING VICTIMS A VOICE:** **Creative Dispositions in Juvenile Court**

Ms. Marlyce Nuzum  
Program Specialist  
Bureau of Juvenile Justice  
Family Independence Agency

## RESTORATIVE JUSTICE OVERVIEW

### Alternative philosophy of crime and justice:

- ☐ Crime is more than a violation of the law
- ☐ Crime is a violation of individuals and communities
- ☐ Justice should be about repairing the harm caused by crime and ensuring public safety
- ☐ Justice is best achieved when victims, offenders and community members are involved to the greatest extent possible in the justice process.

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## Restorative Justice Overview

(continued)

### Stakeholders:

- Victims
- Offenders
- Communities

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## Overview: Goals and Principles

- |                          |                            |
|--------------------------|----------------------------|
| ■ Accountability         | ■ Repair harm              |
| ■ Competency development | ■ Reduce risk              |
| ■ Public safety          | ■ Build community capacity |

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## OVERVIEW (continued)

Role of the juvenile justice system  
Facilitate processes that focus on  
problem solving and community  
capacity building

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## CREATIVE DISPOSITIONS: *Goals and Characteristics*

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## CREATIVE DISPOSITIONS THAT CONSIDER VICTIMS

### Goals

- Community protection
- Repairing harm to victims
- Enhancing the ability of youthful offenders to be productive community members

### Characteristics

- Specific to the crime
- Specific to the victim
- Specific to the offender

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## CASE STUDY

### Crime

A group of juveniles  
smashed a Jewish  
family's menorah

### Disposition

- View Schindler's List and write an essay on anti-semitism
- Write apologies to the family
- Community service at a synagogue or Habitat for Humanity

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## PROMISING VICTIM SENSITIVE PRACTICES

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## VICTIM IMPACT STATEMENTS

- **Definition:** Written and/or oral statements by the victim that provides the court with a picture of the psychological, physical and financial harm caused by the crime.
- **Procedures and Goals:**
  - Obtain a written statement that is incorporated into the pre-sentence investigation or disposition report
  - Victim can make an oral statement at the disposition hearing

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## **Victim Impact Statements** *(continued)*

- Provide information that can be helpful in issues related to:
  - Restitution and replacement value of stolen or damaged property
  - Victim wishes relative to alternative disposition interventions
  - Victim recommendation for offender treatment and for community service assignments
- Validates the victim as a meaningful part of the juvenile justice process

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## **RESTORATIVE COMMUNITY SERVICE**

**Definition:** Community service is work performed by an offender for the benefit of the community. Community service is restorative when:

- The service experience is related to the harm done and is of value to the community
- The service assists the offender in making amends
- The experience creates opportunities for the youth to build positive relationships and regain acceptance by the community.

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## **RES. COM. SERVICE** *(continued)*

### **Procedures and Goals**

- Requires a true public-private partnership. Community residents can:
  - Provide meaningful work experiences
  - Volunteer to supervise offenders
  - Serve as mentors for youth.
  - Provide connections that integrate the youth into the community

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## **RES. COM. SERVICE** *(continued)*

### **Res. Com. Service Coordinator**

- Identify, develop and nurture placement opportunities
- Recruit, educate and support community volunteers
- Work with placement sites if a problem arises with the site

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## **RES. COM. SERVICE GOALS**

- Hold offenders accountable for the harm they have caused
- Provide services that are of value to the community
- Help offenders develop new skills through supervised work experiences

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## **RES. COM. SERVICE GOALS**

- The experience will help the community to positively integrate the youth as a productive community member.
- Allow victims a voice and, in some cases, some direct benefit by recommending the type of community service to be performed.
- Recognize victims and volunteers as essential partners in the restorative community service process.

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## TYPES OF RESTORATIVE COMMUNITY SERVICE

- Activities that directly benefit the victim or a charity of the victim's choice
- Activities that benefit victim service organizations or services for the elderly and low income such as food banks and homeless shelters
- Habitat for Humanity

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## TYPES OF RESTORATIVE COMMUNITY SERVICE

- Working with supervised crews that provide crime scene cleanup services to victims of business burglaries
- Service that is directly related to the type of crime committed

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## RESTORATIVE TEEN COURTS

### Definition:

Teen or youth court programs that are participating in an on-going process of incorporating restorative practices and values into the standard operating procedures of the program.

("The Role of Restorative Justice in Teen Courts: A Preliminary Look" by Tracy M. Godwin)

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## RES. TEEN COURTS *(continued)*

### Procedures and Goals

- Develop a plan that incorporates a shift in program philosophy from punishment to reparation of harm
- Rethink the role of victims and community members
- Rethink and redefine dispositional options
- Regular reassessment of practices in terms of restorative justice principles and make adjustments as needed
- Goal: Assist the respondent in repairing the harm caused by his/her actions.

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## CHARACTERISTICS OF A RESTORATIVE TEEN COURT

- Focus on identifying the harm that was done
- Focus on how to repair the harm
- Emphasis in hearings includes an increased focus on dialogue and understanding

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## CHARACTERISTICS OF A RESTORATIVE TEEN COURT

- Service options for offenders are related to their strengths, the wishes of the victim and are of benefit to the community.
- Outcomes strengthen the relationship between offenders and the community
- Training for participants includes issues related to conflict resolution, problem solving skills, etc.

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## CIRCLE SENTENCING

**Definition:** A community-directed process, conducted in partnership with the justice system, to develop consensus on an appropriate sentencing plan that addresses the concerns of all the interested parties. A traditional circle format is used.

Adapted from:  
"Restorative Justice On-line Notebook" at  
<http://www.ojp.usdoj.gov/nij/rest-just/index.htm>

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## CIRCLE SENTENCING *(continued)*

### Procedures and Goals

- **Pre-implementation planning**
  - Training
  - Building community awareness, support and involvement
  - Gaining justice system support
  - Engaging support for victims and offenders
  - Develop procedures that are within the community's capacity for responsibility
  - Focus on objectives

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## SENTENCING CIRCLES *(continued)*

- Pre-circle preparation
  - **Benefits**
  - **Process**
- Circle hearing: Development of consensus on the elements of a sentencing plan
- Follow-up
  - **Follow-up circles to monitor the progress of the offender**

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## CIRCLE SENTENCING GOALS

- Promote healing for all affected parties
- Provide opportunities for the offender to directly repair the harm caused by his/her actions
- Empower all affected parties by giving them a voice and a shared responsibility to find constructive solution
- Address the underlying causes of crime
- Enhance the sense of community and its capacity for resolving conflict
- Promote community values

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## VICTIM IMPACT PANELS

- **Definition:** Victims/survivors of crime address groups of youthful offenders, describing the impact of crime upon their lives.
- **Goals**
  - Individualize and humanize the consequences of crime
  - Change behavior and attitudes

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## Goals *(continued)*

- Empower victims by giving them a forum in which to educate a group of offenders
- Offenders may participate as speakers as a means of taking responsibility and making amends

**Resource: A How To Guide for Victim Impact Panels by Janice Harris Lord for MADD**  
[http://www.nhtsa.dot.gov/people/injury/alcohol/VIP/VIP\\_index.html](http://www.nhtsa.dot.gov/people/injury/alcohol/VIP/VIP_index.html)

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## VICTIM/OFFENDER DIALOGUES

Definition: A process in which the victim and the offender meet, in the presence of a trained facilitator, with the focus of the dialogue on the harm that was done to the victim and the offender's responsibility for reparation of that harm.

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## VICT/OFFENDER DIALOGUES *(continued)*

- Procedures and Goals:
  - Victim initiated and entirely voluntary
  - Extensive pre-meeting preparation by a trained facilitator with both the victim and the offender
  - Offender participation is voluntary
  - The meeting should only take place if the offender is acknowledging responsibility for the offense

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## VICT/OFFENDER DIALOGUE: Goals

- Goals:
  - Provide an opportunity for the victim to let the offender know how the crime has affected them
  - Provide an opportunity for the victim to get information only the offender can provide
  - Opportunity for the offender to take direct responsibility
  - Educate the offender about the impact of their behavior
  - Secondary goal is to develop a restitution plan

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## VICT/OFFENDER DIALOGUES

- Benefits of victim/offender dialogues
  - Victims who meet with their offender are more likely to be satisfied with the justice system response
  - Reduced fear of being re-victimized
  - Offenders who meet with the victims are more likely to complete restitution obligations
  - Reduced recidivism rates

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## FAMILY GROUP CONFERENCING

Definition: Family group conferencing involves the people most affected by a crime - the victim, the offender and the family and friends of both - in deciding the resolution of a delinquent act.

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## FAMILY GROUP CONFERENCING

*(continued)*

### Procedures and Goals

- Training for all facilitators in mediation and conflict resolution skills as well as the effects of victimization, the needs of crime victims and understanding the needs of juvenile offenders
- Conference should be highly victim sensitive
- In-person pre-conference preparation for all primary participants
- Train facilitators in cultural and ethical issues that are likely to affect the process and participants

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## **FAMILY GROUP CONFERENCING**

*(continued)*

- Offender must admit to the offense in order to participate
- Conference usually begins with offender describing the incident
- Each participant describes the impact of the incident
- Victim is asked to identify desired outcomes and help shape the obligations placed on the offender
- All other participants may contribute to the process of determining how the offender might best repair the harm caused

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## **FAMILY GROUP CONFERENCING**

*(continued)*

- Participants sign an agreement outlining their expectations and commitments
- Follow-up and monitoring
- Empower victims and communities
- Hold juvenile offenders accountable
- Repair harm to victims and communities
- Provide opportunities for the offender to make amends

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## **DIFFERENCES BETWEEN V/O DIALOGUES AND FGC**

- Recognizes a wider group of people as having been victimized by the offense
- Because a wider range of participants is involved, citizen volunteers are more likely to offer follow-up support for both the victim and the offender
- The role of the family in a juvenile offender's life is acknowledged and emphasized

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## **CASE STUDY**

- Crime: While on her way to work a nurse in her late fifties was hit on the head with a bottle and robbed of her handbag. As a result of the offence she was so traumatized that she was unable to work or leave her house on her own.
- Conference:
  - Importance of family members

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## **CASE STUDY** *(continued)*

- Outcomes
  - Offender experienced and expressed remorse
  - Offender apologized to the victim
  - Victim learned more about the offender's history
  - Victim was less fearful of the offender
  - Victim encouraged the girl to change her life
  - After the conference, the victim returned to work and is able to leave her house on her own

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## **WHAT'S IN IT FOR ME? Benefits of Creative, Victim Sensitive Dispositions in Juvenile Court**

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## BENEFITS FOR VICTIMS

- Empowers victims by giving them a voice
- Increases levels of victim satisfaction with the juvenile justice process
- Reduces fear and likelihood of being re-victimized by this offender
- Increases likelihood that reparation will be made

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## BENEFITS FOR OFFENDERS

- Provides an opportunity to take responsibility for harmful behavior
- Provides an opportunity to make amends
- Helps to repair and/or build positive relationships
- Provides opportunities to develop skills
- May prevent the youth from establishing a juvenile record
- Successful completion of obligations may remove the offender stigma

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## AN OFFENDER'S EXPERIENCE

"My first impression when asked to take part in a restorative justice conference was fear and guilt. But I decided that it was something I had to do...I found the conference very difficult, but a very worthwhile exercise in taking responsibility for my actions. The main lesson I learnt about myself was that my crime affected everybody concerned – it became more like ten crimes because of all the people it affected."

(An offender sentenced to three and a half years in prison for robbery)

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## BENEFITS FOR THE JUVENILE JUSTICE SYSTEM

- Caseloads of the Court may be reduced
- Less costly than most traditional interventions
- Increases the number of disposition options available
- Increased levels of participant satisfaction
- Increased likelihood of compliance with sanctions including payment of restitution
- Decreased recidivism rates
- Community ownership and involvement in solving local problems that contribute to the commission of crime

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## CONCLUSIONS

- Creative dispositions are more successful if partnerships are formed between the juvenile justice system and
  - Representatives of the community
  - Business leaders
  - Victim service agencies
  - Community service providers
- Creative dispositions require
  - Vision
  - Leadership
  - Innovation

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The Michigan Judicial Institute Presents:

## Victim Offender Reconciliation Programs

Hon. Frederick R. Mulhauser  
Probate and Family Court Judge  
Charlevoix and Emmet Counties

## Agenda

- Introduction: What Is VORP?
- Philosophical Origins Of VORP
- How VORP Fits Into Court
- Benefits Of VORP
- Charlevoix/Emmet County Program History
- Charlevoix/Emmet County Program Mechanics
- Victims And VORP
- Starting A VORP Program In Your Court
- Summary: How VORP Makes Court More Victim-friendly
- Resources

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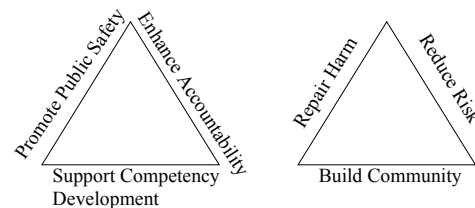
## Introduction: What is VORP?

- Victim Offender Reconciliation Programs (VORP) entail face-to-face meetings between the victim of a crime and the person who committed that crime.
- During the meeting, the victim and offender can talk to each other about what happened, the effects or impact of the crime, and how they feel about what happened.
- The parties may come to an agreement about how to repair or repay any damage that was done as a result of the crime.

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## Philosophical Foundations

- **Balanced And Restorative Justice (BARJ)** principles provide the philosophical foundation of VORP
- **BARJ seeks to balance the needs of the victim, the community, and the offender as illustrated in the following models:**



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## Philosophical Foundations

### The BARJ Model of Crime and Justice:

- **The BARJ model views Crime as harm or damage to people, communities, and relationships.**
  - What is the nature of the harm resulting from the crime?
  - Who is responsible for the harm?
- **The BARJ model views Justice as a repair or healing of the harm done to people, communities, relationships.**
  - What needs to be done to "make it right" or repair the harm?
  - Who is responsible for the repair?

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## VORP Programs for Juveniles and Adults

- **Juvenile Court VORP**
  - VOM with juveniles began 1980
  - Growing trend
  - Majority of VOM nationwide done with juveniles
  - Accountability focus
  - Victim willingness due to desire to help rehabilitate
- **District/Circuit Court VORP**
  - Trend of VOM with adult offenders more recent
  - Increased perceptions of danger
  - Decreased victim willingness

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## When VORP Can Be Used In The Adjudicative Process

- How/when VORP fits into adjudicative process
- Pros/cons of different timing

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## Benefits for the Court

VORP benefits the Court through:

- Higher numbers of restitution completions
- A decrease in restitution hearings
- Increased satisfaction with court by victims
- Increased perception of fairness by offenders
- More accelerated restitution payments

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## Benefits for the Victim

VORP allows victims to:

- Get information about the events of the crime that they otherwise would not get.
- Put a specific face to the crime thus reducing the globalization of fear.
- Express their feelings about the crime.
- Be heard.
- Receive direct answers to their questions.

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## Benefits for the Victim

VORP allows victims to (*continued*):

- Be actively involved in getting their needs met.
- Actively participate in a restitution agreement.
- Get restitution more timely and more completely

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## Benefits for the Offender

VORP allows offenders to:

- Take responsibility for their actions
- Understand the impact their actions had on the victim
- Apologize for their wrongdoings
- Determine how to right the wrong they have done
- Often be forgiven
- Deal with what they have done and move forward

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## Benefits for the Community

VORP helps the community to:

- **Restore peace**
- **Decrease fear**
- **Restore community**
- **Increase perceptions of the Justice System as being victim friendly**
- **Be recognized as an impacted party to crime**

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## History of VORP Program in Charlevoix & Emmet Counties

- 1985-present
- Changes in Program structure
- Historical Staffing
- Historical Statistics

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## Charlevoix & Emmet County VORP Successes

### VORP Outcomes:

- An agreement was reached that if the offender graduated from high school the restitution for slashed tires would be forgiven.
- A victim of arson was so fearful after the incident that she was unable to sleep in her home for more than six months. After mediation, she was able to go back home.
- Offender agreed to do some moving work for the victim in lieu of the restitution.

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## Charlevoix & Emmet County VORP Successes

### VORP Outcomes:

- Victim wanted offender to perform community service for elderly in lieu of restitution.
- Victim felt that the juvenile lacked a sense of spirituality, and they agreed that the juvenile would read the Bible and write essays on the readings as payment of restitution.
- A juvenile was offered his job back after stealing from the restaurant where he worked.

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## Charlevoix and Emmet County VORP Process

### Step 1

- Court orders Juvenile to participate in VORP and pay restitution as determined. (VORP applies to all petitions adjudicated or dismissed as part of a plea agreement.)

### Step 2

- VORP Director meets with juvenile and juvenile's parent(s) after court, explains VORP, and answers questions.

### Step 3

- Juvenile Register copies order, petitions, police reports, and offender contact information and forwards same to VORP Director

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## Charlevoix and Emmet County VORP Process

### Step 4

- VORP Director
  - Contacts victim
  - Explains VORP
  - Addresses the victim's concerns
  - Determines whether or not the victim wishes to participate in a face-to-face meeting with the offender
  - Determines whether or not the victim has any monetary damage as a result of the crime
  - Determines restitution amounts and any need for supporting documentation
  - Narrows down a couple of possible meeting times

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## Charlevoix and Emmet County VORP Process

### If the victim is willing to meet with the offender:

#### ■ Step 5

- VORP Director:
  - Contacts offender/offender's parents with possible dates/times for meeting
  - Requires that at least one parent with supervisory capacity to attend

#### ■ Step 6

- VORP Director
  - Schedules meeting
  - Sends confirmation letters with additional information about VORP

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## Charlevoix and Emmet County VORP Process

### ■ Step 7

- Mediator holds VORP Meeting(s)
  - Restitution contracts are drafted at the table
  - In cases involving multiple offenders, the number of meetings held is determined by the victim's wishes and comfort level.
  - In cases involving multiple victims, the number of meetings held is determined by the level of capacity of the offender.

### ■ Step 8

- Restitution contracts are forwarded to the Financial Officer

### ■ Step 9

- Follow-Up on agreements

### ■ Step 10

- Case closed

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## Charlevoix and Emmet County VORP Process

### ■ If the victim does not wish to meet with the offender and has no restitution

**Step 5:** A letter is sent to the offender requesting a letter of apology

**Step 6:** The letter of apology is sent to the victim, if appropriate

**Step 7:** The case is closed

### ■ If the victim does not wish to meet with the offender, but has restitution

**Step 5:** A letter is sent to the offender detailing restitution & requesting an apology letter

**Step 6:** Offender sends restitution contract/payment plan to the court with first payment

**Step 7:** The apology letter is forwarded to the victim, if appropriate

**Step 8:** The restitution contract and payment are forwarded to the Financial Officer

**Step 9:** The case is closed

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## Understanding Victim Motivations

Victims generally want:

- The crime to not happen to anyone else
- Restitution
- A sincere apology
- The offender to hear and understand what happened as a result of the crime
- The offender to be rehabilitated and move on to productive, healthy lives
- To put a face to the crime
- To ask offenders questions about the crime such as events, reasons, victim selection, future intentions

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## Overcoming victim objections

Victims often hesitate to participate in VORP meetings due to their level of fear, desire to avoid conflict, emotions, and/or stage of healing. However,

**Victims generally agree to participate when told that:**

- They can ask the offender any questions they have about the crime
- They can determine their own restitution agreement
- They can get information about the offender, the offender's sentence, and the offender's rehabilitation program
- Statistically, offenders who participate in VORP meetings are less likely to re-offend
- VORP is intended as a way to allow victims a forum for getting what they need to repair the material and emotional harms of crime.

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## How to start a VORP Program

### ■ Establishing Program Goals/ Expectations

- What the court wants to accomplish through VORP
- What the court will require of offenders
- What the court will expect from the mediation process

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## How to start a VORP Program

### ■ Establishing Program Parameters

- When in adjudicative process the court will use VORP
- With what types of offenses the court will use VORP
- How the court will enforce VORP

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## How to start a VORP Program

- Deciding on a program structure
  - On-site programs
    - County or court sponsored VORP
    - Contracted VORP (County or Court)
    - VORP through County Victim Services Unit
    - VORP through Restitution Coordinator
  - Off-site programs
    - CDRP centers
    - Prison ministries
    - Religious Organizations

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## How to start a VORP Program

- Funding
  - Grants
  - Child Care Fund
  - County Position
  - State Victim Services Grants/Funding
- Hiring
  - Mediation skills and experience
  - Organizational skills
  - Counseling related skills and experience
  - Victim sensitivity

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## How to start a VORP Program

- Training
  - Mediation Training
    - CDRP Centers (Community Dispute Resolution Program)
    - NAFCM (National Association For Community Mediation)
    - ICLE (Institute for Continuing Legal Education)
  - VORP/VOM Training
    - CDRP Centers
    - VOMA (Victim Offender Mediation Association)
    - NRJTI (National Restorative Justice Training Institute)

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## How to start a VORP Program

- Training *(continued)*
  - Legal System Trainings & References
    - MJI Trainings
  - Victim Issues
    - PAMM Conferences (Prosecuting Attorneys Association of Michigan)
    - BARJ Conferences
    - Victim's Rights Manual

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## Summary

VORP makes Juvenile Court more victim friendly by:

- Giving victims a voice in the justice system
- Acknowledging that the crime happened to a real person whose life was impacted in some way by the crime.
- Giving victims the opportunity to meet with the person(s) who committed the crime against them

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## Summary

VORP makes Juvenile Court more victim friendly by:

- Allowing victims an avenue to be actively involved in getting their own needs met
- Understanding that victims have emotional needs in addition to material needs that can be met through restorative justice or VORP in ways that the traditional system cannot meet.

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## Where to Get More Information

- CDRP (Community Dispute Resolution Program)
  - [Courts.michigan.gov/scao](http://Courts.michigan.gov/scao)
- ICLE (Institute for Continuing Legal Education)
  - [www.icle.org](http://www.icle.org)
- MJJ Trainings (Michigan Judicial Institute)
  - [www.courts.mi.gov/mji](http://www.courts.mi.gov/mji)
- NAFCM (National Association For Community Mediation)
  - [www.nafcm.org](http://www.nafcm.org)
- NRJTI (National Restorative Justice Training Institute)
  - [ssw.che.umn.edu/rjp](http://ssw.che.umn.edu/rjp)

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## Where to Get More Information

- PAAM Conferences (Prosecuting Attorney Association of Michigan)
  - [Youngt3@mi.gov](mailto:Youngt3@mi.gov)
- Mediate.com
  - [www.mediate.com](http://www.mediate.com)
- VOMA (Victim Offender Mediation Association)
  - [www.voma.org](http://www.voma.org)
- Balanced and Restorative Justice
  - [www.mibari.org](http://www.mibari.org)
- NCJRS (National Criminal Justice Reference System)
  - [www.ncjrs.org](http://www.ncjrs.org)

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## Evaluation Form

Thank you for joining us today.

Please take a moment to complete  
the on-line evaluation form by  
clicking on the link below.

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